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Honorable Sandra James
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

May 25, 2010

Re: *United States v. James*, 10 CR 00147 (SLT)

Dear Judge Townes,

As per your Honor's request we are respectfully writing this letter to inform the Court that I previously represented Theodore Persico Jr. in *United States v. Persico*, 05-CR-351 (CBA), which mainly consisted of drafting various motions and sentencing memoranda and meeting with Mr. Persico. Presently, in the above captioned case, my firm represents James Bombino in *United States v. James Bombino*, thereby warranting a *Curcio* hearing pursuant to my prior representation of Mr. Theodore Persico.

In order to constitute a violation of the Sixth Amendment, such conflicts of interest must result in prejudice to the defendant. *United States v. Levy*, 25 F.3d 146 (2d Cir. 1994). A defendant may waive his Sixth Amendment right to a conflict-free counsel if the conflict is such that a reasonable person would continue to be represented by the attorney and the defendant's decision is made voluntarily, knowingly and intelligently. *United States v. Curcio*, 680 F.2d 881 (1982).

As the Court is aware, Mr. Bombino has independent counsel, John Tiffany. Mr. Bombino has been apprised by Mr. Tiffany of the potential conflict that may arise from my representation and fully understands the right he intends to waive. Upon notification of the Court, Mr.

Bombino will file an affidavit waiving his right or at the Court's discretion, a *Curcio* hearing may be conducted.

Thank you for your time and consideration.

Respectfully submitted,

John C. Meringolo, Esq.

Cc: (Via ECF to All Counsel)